

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARK AUGER,

Plaintiff,

v.

Case No. 05-C-158

WILLIAM GROGAN,

Defendant.

ORDER

On November 23, 2005, the plaintiff in the above matter filed a “CONDITIONAL MOTION TO WITHDRAW.” Although the motion is not clear, it appears that the plaintiff has agreed with the defendant to dismiss this case voluntarily so as to avoid the risk of having to pay the defendant’s costs. The motion also suggests that the dismissal is to be without prejudice, as the plaintiff indicates that he has found a “suitable expert witness” and has prepared an amended complaint which he intends to submit to the court shortly. A letter from the defendant to the plaintiff confirms their verbal agreement that the claims of both parties should be dismissed without further costs to either party. The letter further states that “an order to this effect signed by the court shall conclude the case at this time.”

The court is unable to determine from the filings of the parties whether the dismissal is to occur with or without prejudice. For an order to conclude this matter, the dismissal must be with prejudice. On the other hand, plaintiff indicates an intent to submit an amended complaint. Under

these circumstances, the court is at a loss as to what action it should take. Accordingly, the court will take no action until the parties clarify the relief they are requesting.

SO ORDERED.

Dated this 29th day of November, 2005.

s/ William C. Griesbach
William C. Griesbach
United States District Judge